

# National Republican Congressional Committee



2000 SEP 21 P 3: 58

Donald F. McGahn II General Counsel

MUR 5/00

September 20, 2000



Lawrence M. Noble, Esq. General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463

Re: Complaint Against McCallion for Congress Committee, Darrel L.

Paster, Esq. as Treasurer

Dear Mr. Noble:

The National Republican Congressional Committee, by and through its General Counsel, hereby brings this complaint pursuant to 2 U.S.C. § 437g(a)(1) against McCallion for Congress Committee and Darrell Paster as Treasurer. The National Republican Congressional Committee is located at 320 First Street, S.E., Washington, D.C. 20003.

### I. <u>VIOLATIONS</u>

Kenneth F. McCallion is a Democrat candidate for United States Congress from the 22<sup>nd</sup> district of New York. His campaign committee is McCallion for Congress. The New York primary was held on September 12, 2000; however, McCallion did not file a pre-primary report as required by the Act. McCallion has been notified of his failure to file, but refuses on the grounds that the committee was not engaged in any fundraising for the primary election, and his name did not appear on the Democrat primary ballot.

320 First Street, S.E. Washington, D.C. 20003 (202)479-7069 www.nrcc.org Of course, this is incorrect as a matter of law. The Act is clear regarding reporting requirements of campaign committees: the treasurer of a House or Senate campaign committee must file pre-election reports, including pre-primary, no later than 12 days before the primary or general election. 11 C.F.R. § 104.5(a). Additionally, in no less than three advisory opinions, the Commission has made it clear that a candidate must file a pre-election report regardless of whether the candidate is unopposed and his name will not appear on the ballot. AO 1986-21; AO 1978-41; AO 1978-65.

Because McCallion is a well-known New York attorney, one would think that he would know better. And given his other filings, it appears that he may be hiding the true source of his campaign funding:

- Because he failed to file his pre-primary report, his next report is not due until October 15, 2000. Thus, the public has absolutely no idea whatsoever regarding McCallion's financial activity from July until just before the election.
- One would think that a lawyer who represented a group of plaintiff's in a suit against the Exxon Valdez would have sizable personal wealth. But his PFD filed (apparently late) with the House of Representatives tells a different story. He lists no bank accounts on his PFD, although any account more than \$5000 must be disclosed. Similarly, he lists only a minimal number of assets a "cash reserve" and an IRA. He also lists two unsecured loans.
- Even though he claims to not have a bank account worth over \$5,000, a prior FEC report shows that he has already loaned his campaign \$15,000.

These facts raise an obvious question: where did the \$15,000 come from, and how has he been funding his campaign for the past several months? His failure to file with the FEC precludes the public from knowing this answer. No one knows whether it is personal funds, corporate funds, union funds, or even foreign national money being used in his campaign. His unsecured loans also raise a question, because a loan to a candidate can be in some circumstances an excessive and/or prohibited contribution. 11 C.F.R. § 100.7(a)(1)(i), (b)(11) & 104.3(d). Public disclosure is a fundamental tenet of the campaign laws and McCallion has turned a blind eye to the public and to the Commission.

## II. <u>CONCLUSION</u>

For these reasons, and based upon the foregoing, the National Republican Congressional Committee respectfully requests that the Commission find reason to believe that Federal law has been violated and institute appropriate legal action.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,

Donald F. McGahn II

District of Columbia
Signed and sworn to before me this
day of September, 2000.

**Notary Public** 

My Commission expires

M.D. ACTON

Notary Public, District of Columbia
My Commission Expres July 14, 2004

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WESTERN UNION COMMERCIAL SERVICES

CONFIRMATION OF MAILGRAM

TD:DARRELL L PASTER MECALLION FOR CONGRESS 305 MADISON AVE STE 4600 NEW YORK NY 10165-0006

FEDERAL ELECTION COMMISSION JOHN HUCKLE 999 E ST. NW. WASHINGTON DC 20463

SEPTEMBER 1, 2000 IDENTIFICATION NUMBER: CO0358424

REFERENCE:12 DAY PRE-PRIMARY REPORT (07/01/2000 - 00/23/2000)

DEAR TREASURER:

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IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT. AS AMENDED. YOU WERE PREVIOUSLY NOTIFIED OF THE DUE DATE FOR THIS REPORT.

YOU WILL BE ALLOWED FOUR (4) BUSINESS DAYS FROM THE DATE OF THIS NOTICE TO FILE THIS REPORT. THE REPORT SHOULD BE FILED WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, NaMa, WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OF THE SECRETARY OF THE SEMATE, 232 MART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510 FOR SENATE CANGIDATES. A COPY OF THE REPORT SHOULD ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES.

IF YOU HAVE FILED THE REPORT TIMELY BY CERTIFIED OR REGISTERED MAIL, PLEASE NOTIFY US IMMEDIATELY, IN WRITING, OF THE CERTIFIED OR REGISTERED NUMBER AND THE DATE THAT THE REPORT WAS SENT. THE FAILURE TO FILE THIS REPORT MAY RESULT IN PUBLICATION. AUDIT OR LEGAL ENFORCEMENT ACTION.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER. PLEASE CONTACT HICHAEL H. YOUNG IN THE REPORTS ANALYSIS DIVISION ON DUR TOLL FREE NUMBER 19001424-9530. OUR LOCAL NUMBER IS (2021694-1130.

SINCERELY.

JOHN D. GIBSON

ASSISTANT STAFF DIRECTOR REPORTS ANALYSIS DIVISION



ATTORNEY AT LAW MEMBER OF THE NY AND NJ BAR Far. Marca

THE COLD STREET

TELEPHONE (212) 607-6756

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Scptember 7, 2000

### BY FEDERAL EXPRESS

Mr. Michael Young
Federal Election Commission
999 E Street
Washington, D.C. 20463

Re: McCallion for Congress ID No. C00358424

Dear Mr. Young:

As we discussed today, this letter is to confirm the following with regard to the Commission's notice to the above-captioned committee requesting the filing of a 12 day pre-primary disclosure report.

This committee is not engaged in or fundraising for a primary election.

Mr. McCallion will not appear on the bollot in the Democratic Primary to be held on September 12, 2000.

The July 2000 Quarterly Report filed by this committee was correctly designated on its cover sheet a General Election Report.

The July 2000 Quarterly Report filed by this committee incorrectly checked the box for "Primary" on the Itemized Receipt and Disbursements Schedules. This error occurred because of incorrect instructions given to the person entering the data on individual contributions.

Because we are not participating or fundraising for a primary election. Thelieve that the notice to file the report is not correct. I do, however, apologize for the inconvenience caused by our mistake in checking the wrong box on the individual items schedules.

Mr. Michael Young September 7, 2000 Page 2

Thank you for your assistance and patience in this matter.

Yours very truly,

Darrell L. Paster, Esq.

Treasurer

McCallion for Congress

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UNITED STATES HOUSE OF REPRESENTATIVES	FORM B For use by candidates	TALENCE DE DE LANGE DE LA LANG
: January 1, 19	and new employees	CO HILLS OF COMMENT
KENNETH F. MCCALLION		の変更の問題を
(Full Name) 245 East 93rd Street, New York 1	10128 (212) 907-0870	300 2 2 JUL 2 5 2000
(Mailing Address)	Dsyline Telephone:	(Office Use Only)
Candidate for the State: New York House of Representatives District: 22	Election: Nov. 7, 2000 Amendment	A \$200 penalty shall be assessed
Status New officer or Employing Office:		
ack ink.		
PRELIMINARY INFORMATION — ANSWER EACH OF THESE	HESE QUESTIONS	
I. Did you or your spouse have "earned" income (e.g., salaries or fees) of \$200 or more from any source in the reporting period?  If yes, complete and attach Schedule I.	IV. Did you hold any reportable positions on or before the date of filing in the current calendar year or in the prior two years? If yes, complete and attach Schedule IV.	or two years? Yes No
II. Did you, your spouse, or a dependent child receive "unearned" income of more than \$200 in the reporting period or hold any reportable asset worth more than \$1,000 at the end of the period?  If yes, complete and attach Schedule II.	V. Did you have any reportable agreement or arrangement with an outside entity?  If yes, complete and attach Schedule V.	rangement Yes No X
III. Dict you, your spouse, or a dependent child have any reportability (more than \$10,000) during the reporting period?  If yes, complete and attach Schedule III.	VI. Did you receive compensation of more than \$5,000 from a single source in the two prior years?  If yes, complete and attach Schedule VI.	S5,000 from Yes No
Each question in this part must be answered and the	, nswered and the appropriate schedule attached for each "Yes" response	each "Yes" response.
EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INF	INFORMATION — ANSWER EACH	OF THESE QUESTIONS
TRUSTS—Details regarding "Qualified Blind Trusts" approved by the Committee on Standards of Official Conduct and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or a dependent child? (See Instructions, pages 10–11.)	Standards of Official Conduct and certain other snefiting you, your spouse, or a dependent child	(See Instructions, Yes NoX
EXEMPTION—Have you excluded from this report any other assets, "unearned" in because they meet all three tests for exemption?	issets, "unearned" income, transactions, or liabilities of a spouse or dependent child	ependent child Yes No X
CERTIFICATION — THIS DOCUMENT MUST BE SIGNED	BY THE REPORTING INDIVIDUAL	AL AND DATED
This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting application and will be reviewed by the Committee on Standards of Official Conduct or its designee. Any individual who knowingly and willfully falsifies, willfully fails to file this report may be subject to civil penalties and criminal sanctions (See 5 U.S.C. app. 4, § 104 and 18 U.S.C. § 1001).	Government Act of 1978, as amended. The Statement will be available to any requesting person upon written s of Official Conduct or its designee. Any individual who knowingly and willfully falsifies, or who knowingly and d criminal sanctions (See 5 U.S.C. app. 4, § 104 and 18 U.S.C. § 1001).	ole to any requesting person upon written or wilfully falsifies, or who knowingly and 101).
Signature of Reporting Individue	(enp)	Date (Month. Day, Year)
I CERTIFY that the statements I have made on this form and attached schedules are true, complete and correct to the best of my knowledge and belief.	the Mullion	7/21/2000

Name KENNETH F, MCCALLION

Page 2 of 5

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SCHEDULE I—EARNED INCOME (INCLUDING HONORARIA)

\$200 or more during the current year to the filing date and, separately, the preceding calendar year. For a spouse, list the source and amount of any honoraria, list only the source for other spouse earned income exceeding \$1,000. List the source, type, and amount of earned income, including honoraria, from any source (other than your current employment by the U.S. Government) totalling

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Page 3 of 5

KENNETH F. MCCALLION

Name

CHEDULE II — ASSETS AND "UNEARNED" INCOME

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BLOCK A	Asset an acon income source products and asset held for investment or production of income with a fair market value exceeding \$1,000 at the end of the reporting period, and (b) any other asset or source of income which generated more than \$200 in "unearned" income during the year. For realal property or land, provide an address. Provide full names of any mutual funds. For a self-directed IRA (i.e., one where you have the power to select the specific investments), provide information on each asset in the account that exceeds the reporting threshold.	IEA or retirement plan that is not self-directed, name the institution holding the account and provice its value at the end of the reporting	period. For an active business that is not publicity traded, in Block A state the nature of the business and its geographic location. For additional information, see the instruction gookiet for the reporting year.	Exclude: Your personal residence(s) (unless there is rental income); any debt owed to you by your spouse, or by your or your spouse's chird, parent, or sibling; any deposits totaling \$5,000 or less in personal savings accounts; any tinancial interests in or income derived from U.S. Government retirement programs.	If you so choose, you may indicate that an asset or income source is that of your spouse (SP) or dependent child (DC) or is jointly held (JT), in the optional column on the far left.	SP: Mega Corp. Stock	Examples:	i ist bank of Paducan, NT accounts	Citibank Cash Reserve	Citibank IRA				
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For additional assets and unearned income, use next page.

# CHEDULE III — LIABILITIES

Name KENNETH F. MCCALLION

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Report liabilities of over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the reporting period. Exclude: Any mortgage on your personal residence (unless there is rental income); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report revolving charge accounts only if the balance at the close of the previous calendar year exceeded \$10,000

# SCHEDULE IV — POSITIONS

。中央主席中国的基础合理,并不是

an officer, director, trustee of an organization, partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. Report all positions, compensated or uncompensated, held on or before the date of filing during the current calendar year and in the two prior years as

Exclude: Positions held in any religious, social, fraternal, or political entities; positions solely of an honorary nature; and positions listed on Schedule I.

Position	Name of Organization
Director	International Court of the Environment Foundation/North American Committee
Legal Counsel & Agent	Barrington Capital Corp.
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Use additional sheets if more space is required.